IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5413 of 2001

with

SPECIAL CIVIL APPLICATIN No 5895 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE AKSHAY H.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

HEIRS OF DECEASED HARMANBHAI SOMABHAI

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

MR GM AMIN for Petitioners

MR AD OZA, GP for Respondents

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE AKSHAY H.MEHTA

Date of decision: 11/10/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

Both these petitions raise identical questions and common issues. Therefore, upon consensus, they are being disposed of by this common judgment.

The petitioners are original claimants, owners of the land, whose lands came to be acquired by the competent authority under the provisions of Land Acquisition Act, 1894 (Act). The award under section 11 was recorded by the Land Acquisition Officer in respect of the lands of the petitioner-claimants and other claimants. The claimants, who are petitioners before us, in this group of petitions did not desire for a reference under section 18 for being determined by the competent Civil Court. However, competent Civil Court in other matters, enhanced the market price. Therefore, the petitioners submitted written application, jointly for additional enhanced amount invoking the aids of provisions of section 28-A(1) of the Act. The application submitted by 32 applicants who are the original claimants and whose lands came to be acquired, applied for redetermination of the amount of compensation on the basis of award of the Court since the award of the court was in excess of the amount of awarded by the Collector under section 11 of the Act. Six applications out of 32 were returned without any adjudication or redetermination on a technical ground that in case of six applicants, who are petitioners, before us, they had not submitted separate certified copy of the award of the Court and that certified copies applied were of by one advocate Shri G.M.Amin who is junior to Mr.Amin appearing before us. Upon consensus, in view of the hyper technical points raised by the respondent authorities, the respondent authority is required to be directed for taking decision on merits.

In view of the admitted facts, the petitions are allowed. The Special Land Acquisition Officer, respondent No.1, in this group of petitions, is directed to decide and determine all the six applications, covered in this group of two petitions, in the light of the provisions of section 28-A of the Act and in accordance with law as expeditiously as possible, but not later than four months from the date of receipt of writ from this Court. Both the petitions, shall stand allowed to the aforesaid extent. Rule is made absolute accordingly with no order as to costs.

(J.N.Bhatt, J.)

(Akshay H. Mehta, J.)

(vjn)